

Retirement Account on the last day of the preceding fiscal year, rounded to the nearest multiple of one-eighth of 1 per centum" for "the rate of 3 per centum per annum."

1959—Subsec. (d). Pub. L. 86-28 substituted provisions authorizing Board to request transfer and retransfer of funds for provisions which directed Secretary of the Treasury to advance not more than \$25,000,000 for purpose of paying benefits.

1948—Subsec. (a)(i). Act June 23, 1948, changed computation of insurance account.

1939—Subsec. (a). Act June 20, 1939, substituted "(f)" for "(g)".

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable with respect to compensation paid in months beginning after Sept. 30, 1988, see section 7103(c) of Pub. L. 100-647, set out as a note under section 358 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-92 effective with respect to compensation paid for services rendered after Dec. 31, 1975; and effective Aug. 9, 1975, respectively, see section 2 of Pub. L. 94-92, set out as a note under section 351 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1963 AMENDMENT

Section 305 of Pub. L. 88-133 provided that the amendment made by that section is effective after June 30, 1964.

#### EFFECTIVE DATE OF 1959 AMENDMENT

Section 308(b) of Pub. L. 86-28 provided that: "The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [May 19, 1959]."

#### TRANSFER OF FUNCTIONS

"Fiscal Service" substituted for "Division of Disbursements" in two places in subsec. (b) on authority of section 1(a)(1) of Reorg. Plan No. III of 1940, eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231, set out in the Appendix to Title 5, Government Organization and Employees, which consolidated such division into Fiscal Service of Treasury Department. See section 306 of Title 31, Money and Finance.

### **§ 361. Railroad unemployment insurance administration fund**

#### **(a) Maintenance of account; amounts constituting fund**

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 904 of the Social Security Act [42 U.S.C. 1104] an account to be known as the railroad unemployment insurance administration fund. This unemployment insurance administration fund shall consist of (i) such part of all contributions collected pursuant to section 358 of this title as equals 0.65 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this chapter. Such additional amounts are authorized to be appropriated.

#### **(b) Authorization of appropriations; advance of sums; repayment**

In addition to the other moneys herein provided for expenses necessary or incidental to administering this chapter, there is appropriated to the fund such amount as the Secretary of the Treasury and the Board shall jointly estimate to have been collected or to be collectible with respect to the calendar years 1936, 1937, 1938, and 1939, from employers subject to this chapter, under title IX of the Social Security Act, less such amount as the Secretary of the Treasury and the Board shall jointly estimate will be appropriated or has been appropriated to States or Territories pursuant to the Act of Congress approved August 24, 1937 (Public, Numbered 353, Seventy-fifth Congress), as proceeds of taxes paid by employers pursuant to title IX of the Social Security Act.

Until the amount appropriated by this subsection is credited to the fund, the Secretary of the Treasury is directed to advance to the credit of the fund such sums, but not more than \$2,000,000, as the Board requests for the purpose of financing the costs of administering this chapter. Such advance shall be repaid from the fund at such time after the amount appropriated by this subsection is credited to the fund as the Board by agreement with the Secretary of the Treasury may determine, but not later than January 1, 1940.

#### **(c) Availability for administrative expenses**

Notwithstanding any other provision of law, all moneys at any time credited to the fund are permanently appropriated to the Board to be continuously available to the Board without further appropriation for any expenses necessary or incidental to administering this chapter, including personal services in the District of Columbia and elsewhere; travel expenses, including expenses of attendance at meetings when authorized by the Board; actual transportation expenses and not to exceed \$10 per diem to cover subsistence and other expenses while in attendance at and en route to and from the place to which he is invited, to any person other than an employee of the Federal Government who may, from time to time, be invited to the city of Washington or elsewhere for conference or advisory purposes in furthering the work of the Board; when found by the Board to be in the interest of the Government, not exceeding 3 per centum, in any fiscal year, of the amounts credited during such year to the fund, for engaging persons or organizations, by contract or otherwise, for any special technical or professional services, determined necessary by the Board, including but not restricted to accounting, actuarial, statistical, and reporting services, without regard to section 5 of title 41 and the provisions of other laws applicable to the employment and compensation of officers and employees of the United States; services; advertising, postage, telephone, telegraph, teletype, and other communication services and tolls; supplies; reproducing, photographing, and all other equipment, office appliances, and laborsaving devices, including devices for internal communication and conveyance; purchase and exchange, operation, maintenance and repair of motor-propelled pas-

senger-carrying vehicles to be used only for official purposes in the District of Columbia and in the field; printing and binding; purchase and exchange of law books, books of reference, and directories; periodicals, newspapers and press clippings, in such amounts as the Board deems necessary, without regard to the provisions of section 192 of the Revised Statutes; manuscripts and special reports; membership fees or dues in organizations which issue publications to members only, or to members at a lower price than to others, payment for which may be made in advance; rentals, including garages, in the District of Columbia or elsewhere; alterations and repairs; if found by the Board to be necessary to expedite the certification to the Board by the Director of the Office of Personnel Management of persons eligible to be employed by the Board, and to the extent that the Board finds such expedition necessary, meeting the expenses of the Director of the Office of Personnel Management in holding examinations for testing the fitness of applicants for admission to the classified service for employment by the Board pursuant to the second paragraph of section 362(l) of this title, but not to exceed the additional expenses found by the Board to have been incurred by reason of the holding of such examinations; and miscellaneous items, including those for public instruction and information deemed necessary by the Board: *Provided*, That section 5 of title 41 shall not be construed to apply to any purchase or procurement of supplies or services by the Board from moneys in the fund when the aggregate amount involved does not exceed \$300. Determinations of the Board whether the fund or an appropriation for the administration of the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.] is properly chargeable with the authorized expenses, or parts thereof, incurred in the administration of such Act, or of this chapter, shall be binding and conclusive for all purposes and upon all persons, including the Comptroller General and any other administrative or accounting officer, employee, or agent of the United States and shall not be subject to review in any manner.

**(d) Transfer of excess to insurance account**

So much of the balance in the fund as of September 30 of each year as is in excess of \$6,000,000 shall as of such date be transferred from the fund and credited to the account.

(June 25, 1938, ch. 680, § 11, 52 Stat. 1105; June 20, 1939, ch. 227, §§ 14, 15, 53 Stat. 848; Oct. 10, 1940, ch. 842, § 22, 54 Stat. 1099; June 23, 1948, ch. 608, § 8, 62 Stat. 578; Pub. L. 85-927, pt. II, § 205, Sept. 6, 1958, 72 Stat. 1783; Pub. L. 89-700, title II, § 205, Oct. 30, 1966, 80 Stat. 1087; Pub. L. 93-445, title IV, § 404, Oct. 16, 1974, 88 Stat. 1359; Pub. L. 94-92, title I, § 1(j), Aug. 9, 1975, 89 Stat. 464; Pub. L. 94-273, § 2(22), Apr. 21, 1976, 90 Stat. 376; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Pub. L. 100-647, title VII, § 7103(b)(2), Nov. 10, 1988, 102 Stat. 3770.)

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a), (b), and (c), was in the original "this Act", meaning act June 25, 1938, ch. 680, 52 Stat. 1094, which enacted this chapter and amended sections 503 and 1104 and former section

1107 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 367 of this title and Tables.

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IX of the Social Security Act was formerly classified generally to subchapter IX (§ 1101 et seq.) of chapter 7 of Title 42, The Public Health and Welfare, and, except for section 1104 of Title 42, was omitted from the Code pursuant to section 4 of act Feb. 10, 1939, ch. 2, 53 Stat. 1. For further details, see Prior Provisions note preceding section 1101 of Title 42. For complete classification of the Social Security Act to the Code, see section 1305 of Title 42 and Tables.

Act of Congress approved August 24, 1937, referred to in subsec. (b), is act Aug. 24, 1937, ch. 755, 50 Stat. 754, which is not classified to the Code.

Section 192 of the Revised Statutes, referred to in subsec. (c), which related to expenditures for newspapers and which was classified to section 102 of former Title 5, was repealed by act Aug. 2, 1946, ch. 744, § 17(a), 60 Stat. 811.

The Railroad Retirement Act of 1974, referred to in subsec. (c), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, § 101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§ 231 et seq.) of chapter 9 of this title. For further details and complete classification of this Act to the Code, see Codification note set out preceding section 231 of this title, section 231t of this title, and Tables.

**AMENDMENTS**

1988—Subsec. (a). Pub. L. 100-647 substituted "0.65" for "0.5".

1976—Subsec. (d). Pub. L. 94-273 substituted "September" for "June".

1975—Subsec. (a)(i). Pub. L. 94-92 substituted "0.5" for "0.25".

1974—Subsec. (c). Pub. L. 93-445 substituted "Railroad Retirement Act of 1974" and "such Act" for "Railroad Retirement Act of 1937 and the Railroad Retirement Act of 1935" and "such Acts", respectively.

1966—Subsec. (a). Pub. L. 89-700 substituted "0.25 per centum" for "0.2 per centum".

1958—Subsec. (a). Pub. L. 85-927 substituted provisions directing Secretary of the Treasury to maintain in unemployment trust fund established pursuant to section 1104 of title 42 an account to be known as the railroad unemployment insurance administration fund, for provisions which established railroad unemployment insurance administration fund in Treasury of United States.

1948—Subsec. (a)(i). Act June 23, 1948, changed computation of administration funds.

1940—Subsec. (d). Act Oct. 10, 1940, substituted provisions relating to transfer of balance remaining in fund in excess of \$6,000,000, for provisions relating to lapsing of fund, carryovers to surplus or other fund, and transfers from fund.

1939—Subsec. (b). Act June 20, 1939, § 14, substituted "Such advance shall be repaid from the fund at" for "including personal services in the District of".

Subsec. (c). Act June 20, 1939, § 15, substituted "including personal services in the District of" for "Such advance shall be repaid from the fund at".

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-647 applicable with respect to compensation paid in months beginning after Sept. 30, 1988, see section 7103(c) of Pub. L. 100-647, set out as a note under section 358 of this title.

**EFFECTIVE DATE OF 1975 AMENDMENT**

Amendment by Pub. L. 94-92 effective with respect to compensation paid for services rendered after Dec. 31, 1975, see section 2 of Pub. L. 94-92, set out as a note under section 351 of this title.

**EFFECTIVE DATE OF 1974 AMENDMENT**

Amendment by Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of Title 42, The Public Health and Welfare.

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-927 effective Sept. 6, 1958, except as otherwise indicated, see section 207(c) of Pub. L. 85-927, set out as a note under section 351 of this title.

## EFFECTIVE DATE OF 1940 AMENDMENT

For effective date of amendment by act Oct. 10, 1940, see section 1 of act Oct. 10, 1940, see note set out under section 351 of this title.

## TRANSFER OF FUNCTIONS

“Director of the Office of Personnel Management” substituted for “Civil Service Commission” in subsec. (c), pursuant to Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

**§ 362. Duties and powers of Board****(a) Witnesses; subpoenas, service, fees, etc.**

For the purpose of any investigation or other proceeding relative to the determination of any right to benefits, or relative to any other matter within its jurisdiction under this chapter, the Board shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, documentary or otherwise, that relates to any matter under investigation or in question, before the Board or any member, employee, or representative thereof. Any member of the Board or any of its employees or representatives designated by it may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and production of evidence may be required from any place in the United States or any Territory or possession thereof at any designated place of hearing. All subpoenas may be served and returned by anyone authorized by the Board in the same manner as is now provided by law for the service and return by United States marshals of subpoenas in suits in equity. Such service may also be made by registered mail or by certified mail and in such case the return post-office receipt shall be proof of service. Witnesses summoned in accordance with this subsection shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

**(b) Enforcement of subpoenas by courts; contempt; service of orders, writs, or processes**

In case of contumacy by, or refusal to obey a subpoena lawfully issued to, any person, the Board may invoke the aid of the district court of the United States or the United States courts of any Territory or possession, where such person is found or resides or is otherwise subject to service of process, or the United States District Court for the District of Columbia if the investigation or proceeding is being carried on in the District of Columbia, or the United States District Court for the Northern District of Illinois, if the investigation or proceeding is being carried on in the Northern District of Illinois, in requiring the attendance and testimony of wit-

nesses and the production of evidence. Any such court shall issue an order requiring such person to appear before the Board or its specified employee or representative at the place specified in the subpoena of the Board, whether within or without the judicial district of the court, there to produce evidence, if so ordered, or there to give testimony concerning the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. All orders, writs, and processes in any such proceeding may be served in the judicial district of the district court issuing such order, writ, or process, except that the orders, writs, and processes of the United States District Court for the District of Columbia or of the United States District Court for the Northern District of Illinois in such proceedings may run and be served anywhere in the United States.

**(c) Repealed. Pub. L. 91-452, title II, § 239, Oct. 15, 1970, 84 Stat. 930**

**(d) Information as confidential**

Information obtained by the Board in connection with the administration of this chapter shall not be revealed or open to inspection nor be published in any manner revealing an employee's identity: *Provided, however,* That (i) the Board may arrange for the exchange of any information with governmental agencies engaged in functions related to the administration of this chapter; (ii) the Board may disclose such information in cases in which the Board finds that such disclosure is clearly in furtherance of the interest of the employee or his estate; (iii) any claimant of benefits under this chapter shall, upon his request, be supplied with information from the Board's records pertaining to his claim; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 355 of this title. Subject to the provisions of this section, the Board may furnish such information to any person or organization upon payment by such person or organization to the Board of the cost incurred by the Board by reason thereof; and the amounts so paid to the Board shall be credited to the railroad unemployment insurance administration fund established pursuant to section 361(a) of this title;

**(e) Certification of claims; authorization of employee to make payments; bond**

The Board shall provide for the certification of claims for benefits and refunds and may arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. The Board shall designate and authorize one or more of its employees to sign vouchers for the payment of benefits and refunds under this chapter. Each such employee shall give bond, in form and amount fixed by the Board, conditioned upon the faithful performance of his duties. The premiums due on such bonds shall be paid from the fund and deemed to